



# Dernières nouvelles

Latest news | Neueste Nachrichten | Ultime notizie | Últimas noticias | 最新消息

October 9<sup>th</sup> 2014

## Inside this Issue:

**UK:** Court clarifies territorial jurisdiction test for unfair dismissal**Mexico:** New labour inspection regulations now in force**Europe:** Percentage of female board members far below proposed quota**UAE:** Health insurance becomes mandatory for largest employers in Dubai**Italy:** Economic incentive on offer for hiring young workers**Romania:** Right to take leave for child's health check**USA:** Restricting employment criminal background checks in Washington**Europe:** Survey reveals employee perceptions of data protection compliance

## Europe: Percentage of female board members far below proposed quota

According to the European Commission's latest statistics, in April 2014 women made up just 18.6% of board members, on average, among the largest publicly listed companies in the EU. This is much lower than the 40% minimum quota that the European Commission is hoping to achieve by 2020.

From October 2010 to April 2014, the proportion of female board members rose in the majority of EU states, with the largest increases occurring in France (18.1%), Italy (14.1%) and Slovenia (13.5%). However, at present, only in five EU countries — France, Finland, Latvia, Sweden and the Netherlands — do women represent at least 25% of board members and only 3.3% of the largest listed companies in the EU have a female Chief Executive Officer.

Under the European Commission's draft Directive to improve the gender balance in company boardrooms, companies who have not yet reached the 40% threshold will have to ensure that they adopt well-defined and gender-neutral selection criteria to

ensure greater equality. Only in the case of equal qualification will priority have to be given to the candidate of the under-represented sex. The European Parliament has given its support to the proposed quota which is currently being discussed by the EU Council.

## Europe: Survey reveals employee perceptions of data protection compliance

A survey commissioned by cyber security company, Sophos, has revealed that only 23% of employees in UK, French and German businesses believe that their company acts in full compliance with data protection laws.

Of the 1,500 office workers who participated in the survey, the employees' main worries concerned the security of personal data, data breaches and the security of corporate information.

According to the survey, 60% of UK businesses have a clearly communicated data protection policy, compared to just 50% in Germany and 43% in France. The data

also showed that only 62% of companies in the UK encrypt their laptops and 41% their mobile phones. These figures were higher, however, than in Germany where only 56% of companies were found to encrypt their laptops and 32% their mobile phones and in France where just 36% encrypt their laptops and 21% encrypt their mobile phones.

In 2012, the European Commission proposed a comprehensive reform of the EU's 1995 Data Protection Directive, which is expected to be finalised next year and fully implemented by the end of 2017.

## **Germany: Green light for new industry health and safety regulation**

Germany's Federal Government has approved a new Regulation on Industrial Health and Safety. In creating the new Regulation, the lawmakers aimed to clarify the legislation in this area, remove duplications and make it less onerous to follow — particularly for small- and medium-sized enterprises.

The Regulation increases the importance of relevant training and qualifications and for the first time takes into account ergonomical and psychological stress as a risk factor. The law places a particular emphasis on high accident risk activities, such as equipment installation and maintenance.

The Regulation also makes a clear distinction between the equipment manufacturer's duty of care and liability and the equipment owner's duty towards their employees who are operating the equipment or machinery.

If endorsed by the Federal Council, the Regulation is expected to enter into force on January 1st 2015.

## **Italy: Economic incentive on offer for hiring young workers**

Italy's Ministry of Labour and Social Policy is offering an 'occupational bonus' ('bonus occupazionale') to encourage the permanent and temporary hiring of employees aged 16 to 29.

This economic incentive is offered to private employers who hire young people who are not currently employed, studying or training and are registered under the Youth Guarantee programme. It will not be offered to employers hiring young workers as apprentices, for domestic work or on an intermittent basis.

The size of the occupational bonus will depend on the type of contract the employer offers and under what category the young person falls. It will vary from 1,500 euros (1,898 US dollars) to 6,000 euros (7,593 US dollars). Bonuses will be offered from October 3rd 2014 to June 30th 2017 and will be claimed through adjustments to the employer's monthly social security contributions.

The Ministry of Labour will soon issue guidance for employers interested in participating in the initiative.

## **Mexico: New labour inspection regulations now in force**

The General Regulations for Work Inspection and Sanctions Applicability entered into force in Mexico on September 17th 2014. Adding to previous legislation, the Regulations focus on ensuring employer compliance with legislation and provide sanctions for non-compliance.

An employer may now request an inspection of their workplace to ensure that they are fulfilling all their legal obligations. Previously inspections would be randomly

undertaken at the initiative of the Labour Authority only. Where an employer has requested an inspection and they have been found not to be legally compliant, economic sanctions will not be imposed although follow-up inspections may be required. Employers also have the opportunity to request support and technical assistance.

Time limits for the rectification of issues or omissions highlighted at an inspection have also been introduced with the Regulations. The periods provided are determined according to the significance of the issue, the complexity of resolving it, the industry in which the employer is engaged and the number of employees. Economic sanctions are imposed for failures to rectify within the time limits.

In addition, the Labour Authority may now carry out supervisory inspections to check that the information provided by an employer is true and accurate. Economic and criminal sanctions may be applied where an employer has misled the Authority.

## **Romania: Right to take leave for child's health check**

Employees in Romania with children under the age of 18 now have the right to leave from work to take their children for a health check. Employers, however, do not have to pay for this time off.

Under the new law, employees with one or two children may take one day of unpaid leave per year for this purpose and employees with three or more children may take two days per year. Employees must submit a request for time off 15 working days before the visit to the doctor along with proof of the appointment. They must also prove that the other parent or legal guardian has not requested a working day off for the health check. If an employer receives numerous requests

from employees (more than 5% of the total number of workers) the employer may rotate the weekday off to ensure there is no detriment to the business.

If the employer does not comply with these provisions, they will face a fine by the Labour Inspectorate.

## **UAE: Health insurance becomes mandatory for largest employers in Dubai**

From the end of this month, the largest employers in Dubai will be required to provide their employees with mandatory health insurance. The health cover must include a basic health plan to cover tests, treatment, surgery and maternity procedures.

Under the Dubai Health Insurance Law, health insurance cover for employees will become mandatory in companies with more than 1,000 employees from October 31st 2014, in companies with between 100 and 999 employees from July 31st 2015, and in companies with fewer than 100 employees from June 30th 2016.

The cost of health insurance coverage must be paid by the employer or sponsor — it is prohibited for employers to deduct the cost of health insurance from the employee's salary. Employers must provide a basic health plan with an annual premium of between 500 dirhams (108 euros/136 US dollars) and 700 dirhams (151 euros/191 US dollars). However, unlike in Abu Dhabi, employers do not have to grant insurance coverage for their employee's dependants.

## **UK: Court clarifies territorial jurisdiction test for unfair dismissal**

The UK Court of Appeal recently considered whether an expatriate employee had the right to bring a claim

for unfair dismissal before the UK courts.

Previous case law has established that the right under the Employment Rights Act 1996 not to be unfairly dismissed only applies to employees who are working in Great Britain at the time of their dismissal. Some exceptions do apply, however, for certain employees working abroad for an employer based in Great Britain. For the law to apply, the employee must demonstrate that they have a sufficiently strong connection to Great Britain and British employment law.

In this case, the employee lived and worked in Dubai, but was employed by a British subsidiary of a US company that was based in London. At first instance the Employment Tribunal (ET) found that the employee did not have a strong enough connection with Great Britain and British employment law to fall within the above exemption.

On appeal the Employment Appeal Tribunal (EAT) held that a comparison of the strength of connections of the employee to the employment law in each of the two jurisdictions (Britain and Dubai) was necessary. As this had not occurred, the case was to be returned for rehearing.

On further appeal, however, the Court of Appeal overturned the decision of the EAT, confirming that the approach of the ET was correct and the employee in this case did not have sufficiently strong connections with British employment law in order to bring a claim before the UK courts. [Creditsights Ltd v Dhunna [2014] EWCA Civ 1238]

## **USA: Restricting employment criminal background checks in Washington**

Mayor Vincent Gray of Washington D.C. in the United States has signed the Fair Criminal Record Screening Act. The so-called 'ban the box' law will affect all

employers with more than 10 employees, whose physical location is wholly or substantially in the District.

Under the Act, employers are not banned from obtaining criminal background checks or requiring applicants to disclose information about their criminal history, but they will face restrictions regarding when they may request data and what data they may request.

On employment applications, employers must not ask questions about a job applicant's arrest or criminal accusation if it did not lead to a conviction or is no longer pending. They may not ask, or require, job applicants to disclose a criminal conviction until after they have made a conditional employment offer. Employers are entitled to withdraw a conditional offer or take adverse action based on the applicant's criminal background. However, this decision must be based on a legitimate business reason.

A job applicant will be able to challenge a withdrawal of a job offer if they feel the offer was revoked in breach of the Act's provision. If their claim is successful the employer may have to pay a fine, the size of which will depend on the size of the employer's business.

Washington D.C joins an increasing number of states and cities in the US that have enacted similar legislation for private employers. It is currently subject to Congressional review and is due to come into force in late October 2014.

## **Pay, Tax and Benefit Trends**

**BRAZIL:** The average real monthly wages received by workers aged 15 years and over in Brazil in 2013 has been estimated at 1,651 Brazilian real (535 euros/672 US dollars). This is 3.8% higher than average wages in 2012. According to the data from the Brazilian Institute



of Geography and Statistics, workers in the north of Brazil experienced the highest increase in wages between 2012 and 2013, with their average real monthly wages increasing from 1,263 real (410 euros/513 US dollars) to 1,322 real (430 euros/538 US dollars). However, in five federal units — Acre, Amapá, Ceará, Pernambuco and Espírito Santo — earnings actually decreased.

**INDONESIA:** Employers in Indonesia are now required to register employees with the government's new social security organising body (BPJS). BPJS is made up of two administrations: BPJS Health — responsible for health care benefits, and BPJS Employment — responsible for employment benefits, including pensions. All private sector employers must register their employees (including non-nationals who have worked in Indonesia for at least six months) with BPJS Health by January 1st 2015. All employees must be registered with BPJS Employment by July 1st 2015. There are no exemptions for employees with private health plans as there were under the previous regime.

**NETHERLANDS:** An Appeal Court in Amsterdam in the Netherlands has ruled that an iPad is a communication device — not a computer — for tax purposes. Different tax rules apply according to whether the item is a means of communication or a computer. Computers that are provided to employees must be used at least 90% for work-related purposes in order to be considered tax-free. Communication devices, such as smart phones, must only be used for 10% of business purposes to be tax-free. According to the Court, although iPads can be used to e-mail and to surf on the internet, it does not have a classic keyboard found on desktop PCs and laptops and, therefore, it cannot be used for productive work. As a result, iPads cannot be classified as computers.

**NETHERLANDS:** The Dutch government's 2015 Tax Plan has now been submitted to the House of Representatives. The plan establishes that all employers in the Netherlands must implement the

work-related costs scheme (Werkkostenregeling) from January 1st 2015. Although this regime began to operate in January 2011, it was not previously obligatory. Under the scheme, allowances and benefits provided by the employer to the employee will not be taxed as long as the total yearly payments remain below 1.5% (2014) of the payroll costs of the company. In 2015, this will be reduced to 1.2%. If employers do exceed this threshold, the employer will have to pay an 80% tax charge. Certain exceptions do apply — these include intermediary costs (e.g. parking charges) and zero valuation items (e.g. provision of tea and coffee in the workplace).

**PORTUGAL:** After a four-year freeze, Portugal's government, employers and trade unions have agreed to increase the national minimum wage from 485 euros (616 US dollars) to 505 euros (641 US dollars) from October 1st 2014. Despite the rise, however, Portugal's minimum wage remains one of the lowest in western Europe. The government has also decided to reduce employers' social security contributions from 23.75% to 23%. This reduction will be valid only for 15 months from October 2014 to December 2015.

**RUSSIA:** On October 1st 2014, new rules regulating the compensation due to employee inventors by their employers entered into force in Russia. These rules endeavour to provide protection to employees who have created a patentable invention, industrial design and/or utility model in connection with their employment or tasks set by employers. The rules provide for three different types of compensation for these inventions: lump sums for their creation, annual payments for their use, and payment when the item is licensed or assigned by the employer. These rules will apply only when there is no agreement between the parties establishing the terms for compensating employees for their inventions.

**TAIWAN:** Taiwan's national minimum wage will increase from its current 19,273 new Taiwan dollars (502 euros/634 US dollars) per month to 20,008 new

Taiwan dollars (521 euros/658 US dollars) per month in July 2015. This is expected to affect over 2 million employees. The Directorate General of Budget, Accounting and Statistics recently reported that average monthly real earnings were 38,460 new Taiwan dollars (1,001 euros/1,265 US dollars) in July 2014 — this is 2.33% higher than in the same month in 2013. Irregular earnings, which include performance-based bonuses and overtime pay, averaged 7,485 new Taiwan dollars in July 2014. Average monthly earnings therefore totalled 45,945 new Taiwan dollars (1,195 euros/1,511 US dollars) — 6.75% higher than in July 2013.

**UK:** According to the UK's Office for National Statistics, there were 8.1 million active members of an occupational pension scheme in the UK in 2013. This was a slight increase on the figure for 2012 (7.8 million). In 2013 the average contribution rate to defined benefit pension schemes was 15.4% of an employee's pensionable earnings for employers and 5.2% for employees. The average contribution rate to defined contribution schemes in the same year was 6.1% for employers and 2.9% for employees.

**UK:** The UK Employment Appeal Tribunal (EAT) has held that where an employer makes a deduction from an employee's wages as a result of an overpayment in the previous month, this must be explained in an itemised pay statement. However, the explanation need only state the amount of the deduction and the purpose for which it was made. The EAT stressed that 'hidden and unexplained' deductions are not permitted and the provision of an itemised statement is guaranteed by the Employment Rights Act 1996. [UKEAT/0098/10/DM]

## Other Global HR News in Brief

**ARGENTINA:** In Argentina, the Senate's Employment Commission has shown its support for a draft law that

would give employees the right to leave when their spouse, child or parent is sick or has suffered an accident. Under the proposed law, employees would be entitled to 10 days of leave per year in these circumstances. If the relative's treatment must take place outside the province where the employee resides, leave may be extended to 20 days.

**DENMARK:** A draft law in Denmark proposes that it should no longer be possible for employers to dismiss workers automatically when they reach the age of 70. A consultation has been launched and will end on October 10th 2014. According to the Discrimination Act, an employer is not entitled to discriminate against an employee on the basis of their age. However, there is an exception: it is possible to make individual arrangements or conclude collective agreements under which employment is terminated when the employee turns 70. The Bill seeks to repeal this exception. After the consultation period, the Bill will be discussed in parliament and is expected to come into force on January 1st 2016.

**EUROPE:** Although there are 24 official languages in the EU, English was the most commonly studied foreign language at lower secondary level in 2012. According to Eurostat, the European Union's statistical office, 97.1% of pupils learned English as a foreign language at this level. Other popular languages included French (34.1%), German (22.1%) and Spanish (12.2%). Spanish is becoming more and more popular — in 2005, 7.4% of pupils were learning Spanish, but by 2012 this had increased to 12.2%.

**HONDURAS:** A decree approved by the National Congress of Honduras establishes that the non-working public holidays due on October 3rd, 12th and 21st will all be moved to consecutive days in the last week of October (29th, 30th and 31st). For the private sector, the public holiday will begin on Wednesday, October 29th at noon and will end on Saturday, November 1st at noon.

**NORWAY:** Statistics Norway — an independent institution under the Ministry of Finance — has released a report regarding sickness absences. Between Q1 and Q2 2014, self-certified and doctor-certified absences rose by 0.1%. Sickness absences decreased by 0.2% for men but increased by 0.4% for women. Sickness absences in the real estate and technical activities industries rose by 4.3%, but absences in the health and social work industry fell by 1.3%.

**ROMANIA:** Following an amendment to the Romanian Labour Code, an employee now has the right to be assisted by a lawyer or trade union representative during disciplinary procedures. Previously, employees could only be assisted by a representative of the trade union to which they belonged.

**SWEDEN:** In Sweden, new sanctions for violations of working time rules are now in force. Fines will be imposed for breaches of the rules contained in the Working Hours Act, including those regarding standard working time, on-call time, overtime and weekly rest. Now, sanctions may be imposed even if the breach by the employer was not committed intentionally or in a negligent manner. However, the sanctions may be

decreased if the violation was due to a matter beyond the employer's control.

**UK:** The UK's Advisory, Conciliation and Arbitration Service, ACAS, has published guidance designed to help UK employers manage bereavement in the workplace. The guidance states that employers should have a clear bereavement policy in place and should provide appropriate training to managers and human resource teams. The full text is available here: <http://www.acas.org.uk/media/pdf/0/m/Managing-bereavement-in-the-workplace-a-good-practice-guide.pdf>

**USA:** Revised rules regarding employers' duty to report workplace injuries are due to come into force in the US on January 1st 2015. Under the new rules, employers will have to notify the Occupational Safety and Health Administration (OSHA) of all occupational injuries that result in hospitalisation, amputation or eye loss within 24 hours. Currently, employers must notify the OSHA if an accident results in three or more employees being hospitalised, but individual cases of hospitalisation and cases of amputation or eye loss do not have to be reported. The obligation to inform OSHA of any work-related deaths within eight hours will remain unchanged.

## Dates for your diary:

**October 31<sup>st</sup> 2015:** Health insurance cover for employees will become mandatory in companies with more than 1,000 employees in [Dubai](#).

**November 1<sup>st</sup> 2014:** New Trade Union Act comes into force in [Latvia](#).

**November 1<sup>st</sup> 2014:** Treaty between the [Czech Republic](#) and the [Russian Federation](#) on social security enters into force.

**November 3<sup>rd</sup> 2014:** The closing date for all responses of the [UK](#) consultation regarding exclusivity clauses in zero hour contracts.

## Latest news for business travellers:

The World Health Organisation maintains that there is a low risk of tourists or business travelers becoming infected with the Ebola virus in [West Africa](#).

There has been a large increase in the number of cases of dengue fever in the Guangdong province of [China](#). The UK Foreign Office advises that those travelling to this area should take appropriate precautions to avoid being bitten by mosquitoes.

Protests continue in [Hong Kong](#) outside the Central Government Offices (CGO) and Legislative Council building in the Admiralty district as well as in Central, Causeway Bay and Mongkok, causing disruption to traffic and public transport services. The MTR underground train service is, however, operating normally.

Disruption to travel is expected to continue in northern [Scotland, UK](#) due to flooding. Several roads and train routes have been affected.

Business travellers should also be aware that London Underground staff are due to strike between 9pm on October 14th and 8.59pm on October 16th in [London, UK](#).

The Australian government has advised its citizens to avoid travelling to areas with high threats of kidnapping. According to the government, the threat of kidnapping is high in the following countries: [Afghanistan, Colombia, Iraq, Malaysia](#) (eastern Sabah), [North Africa](#) and parts of [West Africa, the southern Philippines, Somalia, Syria](#) and [Yemen](#).

## FedEE news:

**REAL BUSINESS NETWORKING AT YOUR FINGERTIPS:** FedEE is pleased to announce the launch of its new business networking community, butN. This was developed from scratch by us — so it has been shaped around the needs of our members. With butN you can use your location to meet new and old contacts when at home or away on business trips — by entering your future schedule you and your contacts can see when your paths are due to cross. You can also create events or attend events organised by other butN members and keep notes on each of your contacts so that it is easy to resume conversations at a later date. There are all kinds of safety and privacy features — so you will be in complete control of your visibility and who you wish to network with. butN is free, safe and easy to use, so sign up today at <http://butn.co> and get networking!

**NEW ECONOMIC DATA PUBLISHED:** FedEE has just published its projections for consumer prices, salary budgets and employment levels for 2015 covering a selection of countries around the world. The data is available in our HR Knowledgebase. To view the data please click [here](#). We have also published a global minimum wage table giving the monthly minimum wages in a number of countries outside of Europe. To view the table in our HR Knowledgebase, click [here](#).

**FEDEE's AUTUMN 2014 FELLOWSHIP MEETING** will take place on Thursday 30<sup>th</sup> October in London. If you are interested in attending the Meeting, please contact our Membership Secretary, Angelika Rivero ([angelika.rivero@fedee.com](mailto:angelika.rivero@fedee.com)) for further details.



**REFER A COLLEAGUE TO FEDEE AND WE WILL DISCOUNT YOUR MEMBERSHIP FEES:** Don't forget our 'refer a friend' scheme. If you refer a colleague from another company to FedEE we will discount your company's next-due membership fee by £100 for each new member that comes out of your referral. To refer a colleague contact Angelika Rivero, with their contact details on [membershipservices@fedee.com](mailto:membershipservices@fedee.com).

**FOLLOW US ON TWITTER** for news on upcoming events and discussions on global employment law and HR issues @FedeeGlobal

Copyright: FedEE Services Ltd 2014

La Federación de Empresarios Internacionales/The Federation of International Employers (FedEE) is the organisation for international employers operating across Europe. The Federation was founded in 1989 with financial assistance from the European Commission. Our UK postal address is 6th Floor, Broad Quay House, Prince Street, Bristol BS1 4DJ, UK. Tel: 0044 (0)117 975 8611. Web: <http://www.fedee.com>. We utilise virus scan software, but are not responsible for any problems that may arise from the transmission, receipt or use of any material.

In providing the information contained in this communication neither FedEE nor any third party authors are rendering any legal, accounting or other professional advice or opinions on specific facts or matters. Before taking any course of action, you are strongly recommended to seek appropriate professional advice. Where this communication is part of an information society service it shall be subject to our standard terms and conditions. The information transmitted is confidential and intended strictly for the corporate/individual addressee. If you receive this communication in error please notify us as soon as possible and delete it. This message constitutes a commercial communication under Section 7(a) of the Electronic Commerce (EC Directive) Regulations 2002. FedEE's UK Data Protection Notification Number is Z546304X.

The Privacy and Electronic Communications (EC Directive) Regulations 2003: This communication has not been transmitted for direct marketing purposes. However, if you do not wish the address used in this communication to be used again by us for any reason, please inform us by email.